IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5526 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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S P PATEL - Petitioner
Versus
DY POLICE COMMISSIONER EAST AHMEDABAD & 2 - Respondents

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Appearance :
MR BHARGAV N BHATT for Petitioner.
MR LB DABHI, AGP for Respondent No. 1.
FRESH NOTICE REQD for Respondent Nos. 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 06/02/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for quashing and setting aside the suspension order dated 05.08.1991 passed by the Deputy Police Commissioner suspending the petitioner.

2.It is the case of the petitioner that the petitioner was working as Police-sub-Inspector at Naroda Police Station. He was transferred from Gomtipur Police Station to Naroda Police Station. Since then he was in service. On the basis of the report which is submitted by the Police Inspector, Naroda Police Station and one at the instance of P.I., Gomtipur Police Station, the respondent has placed the petitioner under suspension vide order dated 05.08.1991 without calling upon his explanation to explain the charge.

3.There were two charges against the petitioner; one regarding not recording the complaint and the second one regarding non-handing over the papers of the inquiry. The petitioner has given necessary explanation with regard to both these charges in the present petition and considering the averments made in the petition, this Court has admitted the petition on 21.10.1991 and granted interim relief. The Court has observed that looking to the allegations, it cannot be said that they are of serious nature and accordingly, the Court has admitted the petition. The Court has also made it very clear that if the petitioner is suspended, he is ordered to be reinstated subject to the result of the petition.

4.From the aforesaid interim order, it appears that the suspension order has remained inoperative for all these years. The said

order has not only been stayed by this Court, but the Court has directed the respondent to reinstate the petitioner. It, therefore, appears that pursuant to the said order, the petitioner was reinstated. The Court has, however, not stayed further inquiry in the matter and pursuant to the inquiry, if any other action is taken, it is not the subject matter of the present petition nor the outcome of the inquiry is known. So far as the suspension order is concerned, the matter is covered by the decision of this Court in the case of *Gokuldas C. Shah V/s. State of Gujarat decided on 06.10.2000 passed in Special Civil Application No. 8511 of 1992* wherein this Court has taken the view that the impugned order of suspension has remained inoperative. In view of passage of time, there shall be no justification in permitting to operate the impugned order after nearly eight years. So far as the present case is concerned, the

suspension order was passed on 05.08.1991. The same has been stayed by this Court on 21.10.1991. The order remained inoperative for the last more than 14 years and hence, there is no justification in permitting the respondent to operate the said order after 14 years.

5.The petition is, therefore, allowed in terms of interim order dated 21.10.1991. Rule is made absolute accordingly without any order as to costs.

[K.A. PUJ, J.]

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